

# HOUSE BILL 217

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By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health and Mental Hygiene)**

Introduced and read first time: January 28, 2011

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 23, 2011

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Mental Hygiene Administration**  
3 **– Transfers Between Facilities**

4 FOR the purpose of authorizing the Director of the Mental Hygiene Administration to  
5 transfer individuals from a public mental health facility to the Clifton T.  
6 Perkins Hospital Center under certain circumstances; requiring the Director to  
7 give certain individuals notice and an opportunity for a certain hearing under  
8 certain circumstances; providing that certain decisions of an administrative law  
9 judge are final; providing that the Board of Review of the Department of Health  
10 and Mental Hygiene does not have jurisdiction over certain decisions;  
11 authorizing the Director to transfer certain individuals between public mental  
12 health facilities under certain circumstances; defining a certain term; and  
13 generally relating to the transfer of individuals between Mental Hygiene  
14 Administration facilities.

15 BY repealing and reenacting, with amendments,  
16 Article – Health – General  
17 Section 10–807  
18 Annotated Code of Maryland  
19 (2009 Replacement Volume and 2010 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## 1 Article – Health – General

2 10-807.

3 (A) IN THIS SECTION, “PUBLIC FACILITY” MEANS A FACILITY UNDER §  
 4 10-406 OF THIS TITLE MAINTAINED UNDER THE DIRECTION OF THE  
 5 ADMINISTRATION.

6 [(a)] (B) The Director may transfer an individual, WHO IS ADMITTED  
 7 UNDER SUBTITLE 6 OF THIS TITLE OR COMMITTED UNDER TITLE 3 OF THE  
 8 CRIMINAL PROCEDURE ARTICLE, from a public facility to [another public facility  
 9 or, if a private facility agrees, to that private facility,] THE CLIFTON T. PERKINS  
 10 HOSPITAL CENTER, if the Director finds that:

11 (1) The individual either can receive better care or treatment in or  
 12 would be more likely to benefit from care or treatment at [the other facility] THE  
 13 CLIFTON T. PERKINS HOSPITAL CENTER; or

14 (2) The safety or welfare of other individuals would be furthered.

15 (C) (1) PRIOR TO TRANSFERRING AN INDIVIDUAL FROM A PUBLIC  
 16 FACILITY TO THE CLIFTON T. PERKINS HOSPITAL CENTER, THE DIRECTOR  
 17 SHALL GIVE THE INDIVIDUAL NOTICE AND AN OPPORTUNITY FOR ~~HEARING AT A~~  
 18 HEARING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS, UNLESS THE  
 19 DIRECTOR FINDS THAT AN EMERGENCY REQUIRES THE IMMEDIATE TRANSFER  
 20 OF THE INDIVIDUAL.

21 (2) IF THE DIRECTOR DETERMINES THAT AN EMERGENCY  
 22 REQUIRES THE IMMEDIATE TRANSFER OF AN INDIVIDUAL, THE INDIVIDUAL MAY  
 23 BE TRANSFERRED TO THE CLIFTON T. PERKINS HOSPITAL CENTER IF THE  
 24 ADMINISTRATION:

25 (I) PROVIDES NOTICE TO THE INDIVIDUAL; AND

26 (II) SCHEDULES A POST TRANSFER HEARING BEFORE THE  
 27 OFFICE OF ADMINISTRATIVE HEARINGS WITHIN ~~10 DAYS OF~~ CALENDAR DAYS  
 28 AFTER THE TRANSFER.

29 (3) A HEARING REQUESTED BY AN INDIVIDUAL UNDER  
 30 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONVENED AT THE PUBLIC  
 31 FACILITY WITHIN 30 CALENDAR DAYS AFTER THE INDIVIDUAL RECEIVED  
 32 NOTICE OF THE TRANSFER.

33 (D) IF A HEARING IS REQUESTED BY THE INDIVIDUAL IN ACCORDANCE  
 34 WITH SUBSECTION ~~(c)~~ (C)(1) OF THIS SECTION, THE HEARING SHALL BE

1 UTILIZED TO DETERMINE WHETHER THE ADMINISTRATION HAS  
2 DEMONSTRATED BY PREPONDERANCE OF THE EVIDENCE THAT THE CRITERIA  
3 FOR TRANSFER HAVE BEEN MET.

4 (E) A DECISION OF AN ADMINISTRATIVE LAW JUDGE UNDER THIS  
5 SECTION SHALL BE THE FINAL DECISION OF THE DEPARTMENT FOR THE  
6 PURPOSE OF JUDICIAL REVIEW OF FINAL DECISIONS UNDER TITLE 10,  
7 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

8 (F) THE BOARD OF REVIEW OF THE DEPARTMENT DOES NOT HAVE  
9 JURISDICTION TO REVIEW THE DETERMINATION OF AN ADMINISTRATIVE LAW  
10 JUDGE THAT IS MADE UNDER THIS SECTION.

11 [(b)] (G) The Director may transfer any individual who is a resident of  
12 another state to a facility in that state if the Director finds that the transfer is  
13 feasible.

14 [(c)] (H) (1) Any finding that the Director makes under [subsection (a) or  
15 (b) of] this section shall be in writing and filed with the records of the individual  
16 involved.

17 (2) A copy of the finding and the notice to the facility to which the  
18 individual is being transferred shall be sent to the guardian or [next of kin] OTHER  
19 LEGAL REPRESENTATIVE of the individual.

20 (I) THE DIRECTOR MAY TRANSFER AN INDIVIDUAL BETWEEN PUBLIC  
21 FACILITIES, OTHER THAN THE CLIFTON T. PERKINS HOSPITAL CENTER,  
22 WITHOUT THE CONSENT OF THE INDIVIDUAL IF THE DIRECTOR FINDS THAT  
23 ADMINISTRATIVE OR CLINICAL REASONS REQUIRE A TRANSFER OF THE  
24 INDIVIDUAL FROM THE FACILITY.

25 [(d)] (J) (1) In effecting a transfer of an individual from a unit in a  
26 public facility to another unit in the facility or to another public facility, the  
27 transferring facility shall provide for the transfer of all the records necessary for  
28 continuing the care of the individual on or before the date of transfer to the facility to  
29 which the individual is being transferred.

30 (2) This subsection is not intended to preempt the requirements of §  
31 10-625 of this title.

32 [(e)] (K) An individual may not be transported to or from any facility unless  
33 accompanied by:

34 (1) An ambulance attendant or other individual who is authorized by  
35 the facility and is of the same sex. However, the chief executive officer of the facility or

1 that officer’s designee may designate an ambulance attendant or other person of either  
2 sex to provide transportation to an individual, if deemed appropriate; or

3 (2) The parent, spouse, domestic partner, adult sibling, or adult  
4 offspring of the individual.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2011.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.